IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.756 OF 2007
IN
CRIMINAL APPEAL NO.160 OF 2007

Kalpana Mohan Dhumal ... Applicant

Vs.

State of Maharashtra ... Respondents

Ms. P.P. Tendulkar for the applicant.

Mr. A.R. Patil, A.P.P. for the State.

CORAM : SMT. RANJANA DESAI &
SMT. ROSHAN DALVI, JJ.

DATED : AUGUST 1, 2007.

P.C.:-

1. The applicant is original accused 1 in Sessions Case No.33 of 2004. She was tried along with two others for the offence punishable under sections 302, 201 read with section 34 of the Indian Penal Code (for short, "the IPC"). By the impugned judgment and order, the applicant is convicted for life. The appeal of the applicant is admitted. This is her bail application.

2. It appears that prior to this application, the applicant along with other two accused had preferred an application for bail. Admittedly, that application was withdrawn.

3. The incident in question has taken place on 22/10/2003. It is the case of the prosecution that the deceased and the present applicant had illicit relationship. The applicant along with other accused killed the deceased, because there was a dispute between the applicant and the deceased over the property of the deceased.

4. The learned advocate for the applicant submits that the applicant was on bail during the trial. The applicant is a lady. The case rests on the evidence of a single eye witness. That evidence has contradictions and omissions. She further submits that there is a delay in lodging the FIR. She, therefore, prays that in the circumstances, the applicant be released on bail. The learned A.P.P., on the other hand, has opposed for grant of bail.

5. The case of the prosecution is that the accused poisoned the deceased, killed him and dumped his body in a water channel. The incident took place on 22/10/2003. The FIR is lodged on 13/12/2003. There is enormous delay of about two months in lodging the FIR. However, primarily considering the fact that the applicant is a lady and was on bail during the trial, we feel that she should be released on bail. Hence, we pass the following order :

O R D E R

1. The applicant – Kalpana Mohan Dhumal is ordered to be released on bail in the sum of Rs.10,000/- with one or two sureties to make up the amount.

2. While on bail, the applicant shall report to Indapur Police Station once in two months.

6. The application is disposed of.

[SMT. RANJANA DESAI, J.]

[SMT. ROSHAN DALVI, J.]